

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

Michael Frasier,	)	Case No. 4:21-cv-00031-DCC
	)	
Plaintiff,	)	
	)	
v.	)	<b>ORDER</b>
	)	
Dr. J. Alden,	)	
	)	
Defendant.	)	
_____	)	

This matter is before the Court upon Plaintiff's Motion to Dismiss Defendant's Answer. ECF No. 78. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), this matter was referred to United States Magistrate Judge Thomas E. Rogers, III, for pre-trial proceedings and a Report and Recommendation ("Report"). On January 9, 2023, the Magistrate Judge issued a Report recommending that the Motion be denied. ECF No. 102. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff has not filed objections to the Report and the time to do so has lapsed.<sup>1</sup>

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<sup>1</sup> The Court notes that the Report was returned to this Court as undeliverable. ECF No. 104. The envelope was returned to sender due to insufficient address. *Id.* Plaintiff was specifically warned that it was his responsibility to keep the Court updated as to any change of address. ECF Nos. 5, 21, 38. Although Plaintiff submitted a notice of change of address on December 16, 2022, the notice did not indicate a specific apartment number. ECF No. 101. However, the apartment number was later found on the envelope containing the notice, and on January 24, 2023, the Report was re-mailed to Plaintiff to the same address with the specific apartment number included. ECF No. 105. The deadline for Plaintiff to file objections was extended until February 7, 2023. ECF No. 106.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

As stated above, Plaintiff has not objected to the Magistrate Judge’s Report. Accordingly, after considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the recommendation of the Magistrate Judge. Plaintiff’s Motion to Dismiss Defendant’s Answer [78] is **DENIED**.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.  
United States District Judge

February 21, 2023  
Spartanburg, South Carolina